

Minutes of Public Meeting
ARIZONA BOARD OF FINGERPRINTING
June 23, 2000

The Arizona Board of Fingerprinting held its meeting at the Department of Economic Security, Southwest Conference Room, Fourth Floor, 1789 West Jefferson, Phoenix, Arizona. The meeting began at approximately 9:01 a.m.

CALL TO ORDER

ROLL CALL

MEMBERS PRESENT

Mike LeHew
Craig Emmanuel, Alternate
Corinne Velasquez (after 10:15 am)
Cheryl Rowley
Kim Pipersburgh
Joe Garcia

MEMBERS ABSENT

MINUTES

Ms. Pipersburgh made the motion that the Board approves the minutes of the business meeting held on March 21, 2000 as corrected.
Motion carried 5-0.

MOTION

GENERAL SESSION

Mr. LeHew introduced the item. The results of the hearing were introduced for the record.
Mr. Emmanuel moved to affirm the results.
Motion carried 5-0.

GOOD CAUSE EXCEPTION HEARING –
MARCH 21, 2000

MOTION

Mr. LeHew introduced the item. The results of the hearing were introduced for the record.
Mr. Emmanuel moved to affirm the results.
Motion carried 5-0.

GOOD CAUSE EXCEPTION HEARING –
APRIL 12, 2000

MOTION

Mr. LeHew introduced the item. The results of the hearing were introduced for the record.
After discussion, the Chair asked the Director to report back on the final outcome for applicants #A and #I. (Both applicant's cases were closed on June 6, 2000. Applicants #J

GOOD CAUSE EXCEPTION HEARING –
APRIL 26, 2000

and #M ultimately complied with the Board's requirements and received fingerprint clearance cards.) Mr. Emmanuel moved to affirm the results. Motion carried 5-0.

MOTION

Mr. LeHew introduced the item. The results of the hearing were introduced for the record. Mr. Emmanuel moved to affirm the results. Motion carried 5-0.

GOOD CAUSE EXCEPTION HEARING –
MAY 10, 2000

MOTION

Mr. LeHew introduced the item. The results of the hearing were introduced for the record. *After discussion, the Chair asked the Director to report back on the final outcome for applicants #E and #G. (Applicant #E was rescheduled to July 11, 2000. Applicant #G was closed on June 6, 2000.)* Mr. Emmanuel moved to affirm the results. Motion carried 5-0.

GOOD CAUSE EXCEPTION HEARING –
MAY 24, 2000

MOTION

Mr. LeHew introduced the item. The results of the hearing were introduced for the record. *After discussion, the Chair asked the Director to report back on the final outcome for applicant #E. (Applicant #E was rescheduled for August 2, 2000.)* Mr. Emmanuel moved to affirm the results. Motion carried 5-0.

GOOD CAUSE EXCEPTION HEARING –
JUNE 14, 2000

MOTION

Ms. Loveland introduced the item. After discussion, Mr. Emmanuel moved to submit the plan as written. Motion carried 5-0.

FY 2001-2003 STRATEGIC PLAN

MOTION

Ms. Loveland introduced the item. *After discussion, the Chair directed the Director to add additional monies for training purposes and to add a five percent inflation factor per year. (Additional monies were included in the budget request for training; however, the Governor's instructions prevent adding inflation factors to budget requests.)* Mr. Emmanuel moved to affirm the results. Motion carried 5-0.

FY 2002 & FY 2003 BUDGET
SUBMISSIONS

MOTION

Ms. Loveland introduced the item. After discussion, Ms. Velasquez moved to submit the docket as written. Motion carried 5-0.

NOTICE OF RULEMAKING DOCKET
OPENING & CERTIFICATE OF
COMPLIANCE

MOTION

Mr. LeHew introduced the item. Ms. Velasquez volunteered to prepare a draft of proposed procedures by July 11, 2000 for the Board to review, modify and finalize by July 24, 2000.

PROCEDURES TO IMPLEMENT NEW
LEGISLATION

Mr. LeHew introduced the item. After discussion, it was decided that the Board, as a body, would not be submitting any legislation for this legislative session.

PROPOSED LEGISLATION FOR FY 2001

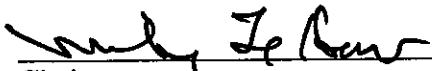
CALL TO THE PUBLIC

No one from the public attended this meeting.

ADJOURNMENT

Mr. LeHew adjourned the meeting at approximately 9:35 a.m.

Approved by the Board on the 12 day of July, 2000.


Chair

13-1001. Attempt; classifications

A. A person commits attempt if, acting with the kind of culpability otherwise required for commission of an offense, such person:

1. Intentionally engages in conduct which would constitute an offense if the attendant circumstances were as such person believes them to be; or
2. Intentionally does or omits to do anything which, under the circumstances as such person believes them to be, is any step in a course of conduct planned to culminate in commission of an offense; or
3. Engages in conduct intended to aid another to commit an offense, although the offense is not committed or attempted by the other person, provided his conduct would establish his complicity under chapter 3 if the offense were committed or attempted by the other person.

B. It is no defense that it was impossible for the person to aid the other party's commission of the offense, provided such person could have done so had the circumstances been as he believed them to be.

C. Attempt is a:

1. Class 2 felony if the offense attempted is a class 1 felony.
2. Class 3 felony if the offense attempted is a class 2 felony.
3. Class 4 felony if the offense attempted is a class 3 felony.
4. Class 5 felony if the offense attempted is a class 4 felony.
5. Class 6 felony if the offense attempted is a class 5 felony.
6. Class 1 misdemeanor if the offense attempted is a class 6 felony.
7. Class 2 misdemeanor if the offense attempted is a class 1 misdemeanor.
8. Class 3 misdemeanor if the offense attempted is a class 2 misdemeanor.
9. Petty offense if the offense attempted is a class 3 misdemeanor or petty offense.

13-1002. Solicitation; classifications

A. A person, other than a peace officer acting in his official capacity within the scope of his authority and in the line of duty, commits solicitation if, with the intent to promote or facilitate the commission of a felony or misdemeanor, such person commands, encourages, requests or solicits another person to engage in specific conduct which would constitute the felony or misdemeanor or which would establish the other's complicity in its commission.

B. Solicitation is a:

1. Class 3 felony if the offense solicited is a class 1 felony.
2. Class 4 felony if the offense solicited is a class 2 felony.
3. Class 5 felony if the offense solicited is a class 3 felony.
4. Class 6 felony if the offense solicited is a class 4 felony.
5. Class 1 misdemeanor if the offense solicited is a class 5 felony.
6. Class 2 misdemeanor if the offense solicited is a class 6 felony.
7. Class 3 misdemeanor if the offense solicited is a misdemeanor.

13-1003. Conspiracy; classification

A. A person commits conspiracy if, with the intent to promote or aid the commission of an offense, such person agrees with one or more persons that at least one of them or another person will engage in conduct constituting the offense and one of the parties commits an overt act in furtherance of the offense, except that an overt act shall not be required if the object of the conspiracy was to commit any felony upon the person of another, or to commit an offense under section 13-1508 or 13-1704.

B. If a person guilty of conspiracy, as defined in subsection A of this section, knows or has reason to know that a person with whom such person conspires to commit an offense has conspired with another person or persons to commit the same offense, such person is guilty of conspiring to commit the offense with such other person or persons, whether or not such person knows their identity.

C. A person who conspires to commit a number of offenses is guilty of only one conspiracy if the multiple offenses are the object of the same agreement or relationship and the degree of the conspiracy shall be determined by the most serious offense conspired to.

D. Conspiracy to commit a class 1 felony is punishable by a sentence of life imprisonment without possibility of release on any basis until the service of twenty-five years, otherwise, conspiracy is an offense of the same class as the most serious offense which is the object of or result of the conspiracy.

13-1004. Facilitation; classification

A. A person commits facilitation if, acting with knowledge that another person is committing or intends to commit an offense, the person knowingly provides the other person with means or opportunity for the commission of the offense.

B. This section does not apply to peace officers who act in their official capacity within the scope of their authority and in the line of duty.

C. Facilitation is a:

1. Class 5 felony if the offense facilitated is a class 1 felony.
2. Class 6 felony if the offense facilitated is a class 2 or class 3 felony.
3. Class 1 misdemeanor if the offense facilitated is a class 4 or class 5 felony.
4. Class 3 misdemeanor if the offense facilitated is a class 6 felony or a misdemeanor.

13-1005. Renunciation of attempt, solicitation, conspiracy or facilitation; defenses

A. In a prosecution for attempt, conspiracy or facilitation, it is a defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, gave timely warning to law enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result which is the object of the attempt, conspiracy or facilitation.

B. In a prosecution for solicitation, it is a defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent completed both of the following acts:

1. Notified the person solicited.
2. Gave timely warning to law enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result solicited.

C. A renunciation is not voluntary and complete within the meaning of this section if it is motivated in whole or in part by:

1. A belief that circumstances exist which increase the probability of immediate detection or apprehension of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or
2. A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim, place or another but similar objective.

D. A warning to law enforcement authorities is not timely within the meaning of this section unless the authorities, reasonably acting upon the warning, would have the opportunity to prevent the conduct or result. An effort is not reasonable within the meaning of this section unless the defendant makes a substantial effort to prevent the conduct or result.

13-1006. Effect of immunity, irresponsibility or incapacity of a party to solicitation, conspiracy or facilitation

A. It is not a defense to a prosecution for solicitation, conspiracy or facilitation that a person solicited, facilitated or with whom the defendant conspired could not be guilty of committing the offense because:

1. Such person is, by definition of the offense, legally incapable in an individual capacity of committing the offense; or
2. Such person is not criminally responsible as defined in chapter 5 of this title, or has an immunity to prosecution or conviction for the commission of the offense; or
3. Such person does not have the state of mind sufficient for the commission of the offense in question.

B. It is not a defense to a prosecution for solicitation or conspiracy that the defendant is, by definition of the offense, legally incapable in an individual capacity of committing the offense that is the object of the solicitation or conspiracy.

DATE: JUNE 21, 2000

DPS USER GROUP MEETING

AGENDA ITEMS

I. Current changes per Senate Bill 1407- the following items are current changes that affect the 5 departments and the Board of Fingerprinting

- ❖ Eliminated the ability for some programs to use persons who do not clear the fingerprinting process from being able to work under direct supervision (does not affect DDD-never had that option).
- ❖ **Requires each program/agency to notify DPS if they receive credible evidence that a person who possesses a fingerprint clearance card has been arrested for or charged with a prohibited crime.**
- ❖ **Requires each program/agency to notify DPS if they receive credible evidence that a person who possesses a fingerprint clearance card has falsified information on the criminal history checklist.**
- ❖ Clarifies the authority of DES to fingerprint employees and volunteers.
- ❖ Provides for each of the 5 agencies to appoint an alternate to the Board of Fingerprinting.
- ❖ **Allows the Board of Fingerprinting to determine good cause exceptions without a hearing unless they do not have enough information to make a determination or are denying a clearance card.**
- ❖ Removes the sections relating to similar populations.
- ❖ **Provides for the Board to issue an interim work permit pending a good cause exception determination.**
- ❖ Removes the requirement that a person who has a fingerprint clearance card and has not been providing services for more than 6 months be reprinted.
- ❖ Provides that a good cause exception from the Board can continue indefinitely if no new crime has been committed. Previous law would require that they receive a new good cause exception every three years when they are printed for the same criminal offense.
- ❖ Provides that a clearance card may be issued for persons receiving a clearance card prior to 8/16/99 if no new crime has been identified. The applicant must request that the agency or program that granted the good cause exception forward the information to DPS.
- ❖ Provides that a clearance card shall be issued for persons whom the court sets aside a judgement of guilt and no other crime is identified.

II. Proposed New Legislation Open for Discussion

- ❖ Program areas reviewing the list of different criminal offenses
- ❖ Statutory limitations on certain criminal offenses
- ❖ Review preparatory offenses (solicitation, facilitation, conspiracy, attempted etc.)

CHAIRS' ITEMS

- POSSIBLE WORK GROUP(S)
- COMMUNICATION BETWEEN THE BOARD, THE 5 DEPARTMENTS, SENATOR SMITH AND LEGISLATIVE LIASONS-CONSIDER A LEGISLATIVE LIASON FOR THE BOF?
- PREPATORY OFFENSES
- SURROGATE PARENT EFFECTIVE 2000-2001/VULNERABLE ADULTS
- ISA
- REMINDER THAT EACH BOARD MEMBER HAS THEIR ASSIGNMENTS TO THE BOARD RENEWED. RENEW 1 YEAR FROM THE DATE OF THE ASSIGNMENT. THIS WOULD INCLUDE ALTERNATES.
- PASS OUT COPIES OF THE DIFFERENT DIVISIONS/DEPARTMENTS INPUT RELATED TO BOARD FUNCTIONS AND DEPARTMENT FUNCTIONS
- OTHER

INTEROFFICE MEMO

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Division of Employment and Rehabilitation Services

Child Care Administration

DATE: 6-16-00

TO: Michael Lehw

DDD

FROM: Brad Willis

CCA

SUBJECT: Response to SB1407 questions

1. *Requires each program/agency to notify DPS if they receive credible evidence that a person who possesses a clearance card has been arrested for or charged with a prohibited crime.*

Feedback: Seems like a reasonable requirement. Only questions would be, what is considered credible evidence, what would the process be to notify DPS, and how would the results of the notification be handled? Would DPS send a letter to the individual and employer notifying them that a card had been invalidated?

2. *Requires each program/agency to notify DPS if they receive credible evidence that a person has falsified information on the criminal history affidavit.*

Feedback: For CCA this would be a simple process, since we actually send the affidavit to DPS initially. Could be significantly more difficult for other administrations or contracted agencies to complete this requirement. Again there are process questions, how would DPS be notified of the false statement and how would the individual and employer be notified if action was taken. Another consideration is that CCA rarely sends in an affidavit if someone checks yes to any Class II offense, so of the 200 plus denials we have had so far, almost all would have met this new requirement. Could be time consuming for CCA and DPS staff.

3. *Allows the Board of Fingerprinting to determine good cause exceptions without a hearing unless they do not have enough information to make a determination or are denying clearance.*

Feedback: Seems like a positive change for the individual and the Board.



1998 PIONEER AWARD FOR QUALITY

4. *Provides for the Board to issue an interim work permit pending a good cause exception determination.*

Feedback: Could be a good idea in some situations where the individual would be under direct supervision at all times, or it was a DUI conviction but the job duties don't include transporting. Question I have are procedural, if the Board has enough information to determine that an interim work permit could be issued, wouldn't there also be enough information to issue a good cause exception as allowed in #3? Would the program the individual is being printed for be allowed to be involved in the decision making process? If an interim work permit is granted, is it a letter, a restricted card, are there transferability issues?

Michael, if you have any questions give me a call at 2-1957.

F A C S I M I L E C O V E R P A G E

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
Division of Aging & Community Services
Community Services Administration - 086Z
Voice Phone: (602) 542-6600
Fax Phone: (602) 542-6655

NUMBER OF PAGES INCLUDING COVER 2

FROM: Bobbie Ludwig

DATE June 16, 2000

TO: Mike Lchew

CO/DEPT. DDD

PHONE: _____

FAX: 602.542.6870

MESSAGE:

Mike, Hope this is not too late. Thanks, Bobbie

IMPORTANT!!

Confidential information found on this faxed transmission is intended solely for the use of the named recipient. Please deliver promptly to the named recipient. It is against the law to disclose, distribute, or use any information indicated on this facsimile transmission.

Please call if all pages are not received or there is a transmission error. Thank You

Please provide feedback!

Action CSA 0002
Assigned to Mary Jo. Written response
due to Jo
6/15/00
c: Ro

SB 1407 SOME CHANGES THAT NEED FEEDBACK

"PLEASE PROVIDE FEEDBACK ON THE FOLLOWING ITEMS. WE ARE TRYING TO GATHER INFO FROM THE 5 DEPARTMENTS ON THE FOLLOWING ITEMS. TO SEE HOW EACH DEPARTMENT FEELS ABOUT THE PROPOSED CHANGES IN SB 1407. SUBMIT BY 6/16/2000 IF WE NEED A MEETING WE WOULD HAVE TO HAVE THE MEETING BEFORE THE WEEK OF 6/19/2000. (SUBMIT THE FEEDBACK TO MIKE LEHEW SITE CODE 791A OR FAX 602-542-6870)

1. REQUIRES EACH PROGRAM/AGENCY TO NOTIFY DPS IF THEY RECEIVE CREDIBLE EVIDENCE THAT A PERSON WHO POSSESSES A CLEARANCE CARD HAS BEEN ARRESTED FOR OR CHARGED WITH A PROHIBITED CRIME.

FEEDBACK: Good idea but: What is "credible evidence"? I understand this is a problem in rural areas where local police agencies do not notify DPS of arrests or charges. This may be the only way to uncover new arrests or charges.

2. REQUIRES EACH PROGRAM/AGENCY TO NOTIFY DPS IF THEY RECEIVE CREDIBLE EVIDENCE THAT A PERSON HAS FALSIFIED INFORMATION ON THE CRIMINAL HISTORY AFFIDAVIT.

FEEDBACK: Again what is "credible evidence". Will this actually do any good? If the application is falsified a crime will have been found and the person not issued a clearance card.

3. ALLOWS THE BOARD OF FINGERPRINTING TO DETERMINE GOOD CAUSE EXCEPTIONS WITHOUT A HEARING UNLESS THEY DO NOT HAVE ENOUGH INFORMATION TO MAKE A DETERMINATION OR ARE DENYING CLEARANCE.

FEEDBACK: This is needed to reduce the time from denial to hearing. Not hearing a case for 3-5 months (the current backlog) means the stuff cannot work.

4. PROVIDES FOR THE BOARD TO ISSUE AN INTERIM WORK PERMIT PENDING A GOOD CAUSE EXCEPTION DETERMINATION.

FEEDBACK: This along with good cause exceptions without a hearing needs to take place within a one week period.

THANKS TO EVERYONE WHO SUBMITTED FEEDBACK ON THE PROPOSED CHANGES THAT WILL AFFECT EACH DEPARTMENT.

MIKE

SB 1407 SOME CHANGES THAT NEED FEEDBACK

"PLEASE PROVIDE FEEDBACK ON THE FOLLOWING ITEMS. WE ARE TRYING TO GATHER INFO FROM THE 5 DEPARTMENTS ON THE FOLLOWING ITEMS TO SEE HOW EACH DEPARTMENT FEELS ABOUT THE PROPOSED CHANGES IN SB 1407. SUBMIT BY 6/16/2000 IF WE NEED A MEETING WE WOULD HAVE TO HAVE THE MEETING BEFORE THE WEEK OF 6/19/2000. (SUBMIT THE FEEDBACK TO MIKE LEHEW SITE CODE 791A OR FAX 602-542-6870)

1. REQUIRES EACH PROGRAM/AGENCY TO NOTIFY DPS IF THEY RECEIVE CREDIBLE EVIDENCE THAT A PERSON WHO POSSESSES A CLEARANCE CARD HAS BEEN ARRESTED FOR OR CHARGED WITH A PROHIBITED CRIME.

FEEDBACK:

Should meet to discuss consistent process

2. REQUIRES EACH PROGRAM/AGENCY TO NOTIFY DPS IF THEY RECEIVE CREDIBLE EVIDENCE THAT A PERSON HAS FALSIFIED INFORMATION ON THE CRIMINAL HISTORY AFFIDAVIT.

FEEDBACK:

Ditto above

3. ALLOWS THE BOARD OF FINGERPRINTING TO DETERMINE GOOD CAUSE EXCEPTIONS WITHOUT A HEARING UNLESS THEY DO NOT HAVE ENOUGH INFORMATION TO MAKE A DETERMINATION OR ARE DENYING CLEARANCE.

FEEDBACK:

All agencies should work with Board to develop process

4. PROVIDES FOR THE BOARD TO ISSUE AN INTERIM WORK PERMIT PENDING A GOOD CAUSE EXCEPTION DETERMINATION.

FEEDBACK:

Ditto above

THANKS TO EVERYONE WHO SUBMITTED FEEDBACK ON THE PROPOSED CHANGES THAT WILL AFFECT EACH DEPARTMENT.

MIKE

Eileen 6/6/00



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Jane Dee Hull
GovernorJohn L. Clayton
DirectorDIVISION OF CHILDREN, YOUTH AND FAMILIES
ADMINISTRATION FOR CHILDREN, YOUTH & FAMILIES
1789 W Jefferson, P. O. Box 6123, Phoenix, AZ 85005TO: Mike LeHew

PHONE NUMBER: _____

FAX NUMBER: 602-542-6870FROM: Bertha winfieldDATE: June 19, 00NUMBER OF PAGES INCLUDING COVER: 2

Phone Number

(602) 542-3981

Fax Number

(602) 542-3330

COMMENTS:

SB 1407 SOME CHANGES THAT NEED FEEDBACK

-PLEASE PROVIDE FEEDBACK ON THE FOLLOWING ITEMS. WE ARE TRYING TO GATHER INFO FROM THE 5 DEPARTMENTS ON THE FOLLOWING ITEMS TO SEE HOW EACH DEPARTMENT FEELS ABOUT THE PROPOSED CHANGES IN SB 1407. SUBMIT BY 6/16/2000. IF WE NEED A MEETING WE WOULD HAVE TO HAVE THE MEETING BEFORE THE WEEK OF 6/19/2000.-(SUBMIT THE FEEDBACK TO MIKE LEHEW SITE CODE 791A OR FAX 602 542-6870)

1. REQUIRES EACH PROGRAM/AGENCY TO NOTIFY DPS IF THEY RECEIVE CREDIBLE EVIDENCE THAT A PERSON WHO POSSESSES A CLEARANCE CARD HAS BEEN ARRESTED FOR OR CHARGED WITH A PROHIBITED CRIME.

FEEDBACK:

I believe this is a good requirement, but I have 3 questions - who or what Dept. would we notify, and in what format, and how would DPS process the information?

2. REQUIRES EACH PROGRAM/AGENCY TO NOTIFY DPS IF THEY RECEIVE CREDIBLE EVIDENCE THAT A PERSON HAS FALSIFIED INFORMATION ON THE CRIMINAL HISTORY AFFIDAVIT.

FEEDBACK:

Also a good requirement. One question - what would DPS do with the information?

3. ALLOWS THE BOARD OF FINGERPRINTING TO DETERMINE GOOD CAUSE EXCEPTIONS WITHOUT A HEARING UNLESS THEY DO NOT HAVE ENOUGH INFORMATION TO MAKE A DETERMINATION OR ARE DENYING CLEARANCE.

FEEDBACK:

I agree.

4. PROVIDES FOR THE BOARD TO ISSUE AN INTERIM WORK PERMIT PENDING A GOOD CAUSE EXCEPTION DETERMINATION.

FEEDBACK:

On what would the Board base their decision?

THANKS TO EVERYONE WHO SUBMITTED FEEDBACK ON THE PROPOSED CHANGES THAT WILL AFFECT EACH DEPARTMENT.

MIKE

Bertha Winfield
DESS Licensing Manager

BOARD OF FINGERPRINTING
Quarterly Budget Report - Adjusted
for the quarter ending March 31, 2000

6/18/00

STARTING BALANCE	\$	-
1st Quarter Allotment	\$	19,800.00
2nd Quarter Allotment	\$	13,200.00
3rd Quarter Allotment	\$	<u>13,500.00</u>
Adjusted Balance =	\$	46,500.00

Personal Services	\$	26,762.00
ERE	\$	4,334.00
Professional/Outside Services	\$	12,090.00
In-State Travel	\$	-
Out-of-State Travel	\$	-
Other Operating	\$	1,200.00
Capital Equipment	\$	<u>-</u>
Sub Total =	\$	44,386.00

REMAINING BALANCE = \$ 2,114.00

**BOARD OF FINGERPRINTING
PROJECTED BUDGET FOR FY 2001**

6/16/00

Personal Services (2.5 FTEs)	\$	96,700.00
ERE	\$	19,600.00
Professional/Outside Services	\$	20,600.00
In-State Travel	\$	-
Out-of-State Travel	\$	-
Other Operating	\$	17,700.00
Capital Equipment	\$	<u>-</u>
TOTAL	\$	154,600.00

Amount Appropriated:	\$	101,700.00
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Shortfall	\$	(52,900.00)
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AGENDA ITEM NO. III. A.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Good Cause Exception Hearings – March 21, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

Board member Joe Garcia was absent. All remaining Board members were present. Thirteen people were scheduled for this hearing. The results are as follows:

- A. Application No. 2000-0123-194. The Board approved an unrestricted Class 1 card.
- B. Application No. 2000-0104-109. The Board approved an unrestricted Class 1 card.
- C. Application No. 99-1109-175. The Board approved an unrestricted Class 1 card.
- D. Application No. 2000-0124-149. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- E. Application No. 2000-0125-143. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- F. Application No. 2000-0204-171. The Board upheld DPS' denial of a Class 1 card, but approved a Class 2 card, restricted to AOC, DES, DHS, and DOE.
- G. Application No. 99-1116-187. The Board approved an unrestricted Class 1 card.
- H. Application No. 2000-0116-124. The Board approved an unrestricted Class 1 card.
- I. Application No. 99-1118-186. The Board approved an unrestricted Class 1 card.
- J. Application No. 2000-0124-152. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- K. Application No. 2000-0114-135. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.
- L. Application No. 2000-0203-170. The Board approved an unrestricted Class 1 card.
- M. Application No. 2000-0127-160. The Board approved an unrestricted Class 1 card.

BOARD ACTION REQUESTED: **INFORMATION** ☒ **ACTION** ☐ (described below)

ATTACHMENTS: YES ☐ NO ☒

AGENDA ITEM NO. III. B.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Good Cause Exception Hearings – April 12, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

All Board members were represented. Alternate Craig Emmanuel represented Board member Corinne Velasquez. Fourteen people were scheduled for this hearing. The results are as follows:

- A. Application No. 2000-0124-157. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.
- B. Application No. 2000-0103-107. The Board approved an unrestricted Class 1 card.
- C. Application No. 2000-0125-192. The Board approved an unrestricted Class 1 card.
- D. Application No. 2000-0112-184. The Board approved an unrestricted Class 1 card.
- E. Application No. 2000-0127-146. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- F. Application No. 2000-0124-155. The Board approved an unrestricted Class 1 card.
- G. Application No. 99-1217-94. The Board approved an unrestricted Class 1 card.
- H. Application No. 99-1129-069. The Board approved an unrestricted Class 1 card.
- I. Application No. 2000-0202-167. The Board approved an unrestricted Class 1 card.
- J. Application No. 2000-0125-141. The Board upheld DPS' denial of a Class 1, but approved a Class 2 card restricted to AOC, DHS, and DOE/SBE.
- K. Application No. 2000-0131-164. The Board approved an unrestricted Class 1 card.
- L. Application No. 2000-0202-169. The Board approved an unrestricted Class 1 card.
- M. Application No. 2000-0118-223. The Board approved an unrestricted Class 1 card.

☐ N. Application No. 2000-0125-140. The Board upheld DPS' denial of a Class 1 and Class 2 card.

☐ **BOARD ACTION REQUESTED:** **INFORMATION** ☒ **ACTION** ☐ (described below)

☐ **ATTACHMENTS:** **YES** ☐ **NO** ☒

AGENDA ITEM NO. III. C.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Good Cause Exception Hearings – April 26, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

All Board members were present. Fourteen people were scheduled for this hearing. The results are as follows:

- OK mail of the*
- A. ~~Application No. 99-1129-234. The hearing was tabled until the applicant submits an application for a Class 1 card and she is present for a hearing.~~
 - B. Application No. 2000-0126-177. The Board approved an unrestricted Class 1 card.
 - C. Application No. 2000-0125-192. The Board upheld DPS' denial of a Class 1 card and denied a Class 2 card.
 - D. Application No. 2000-0118-136. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.
 - E. Application No. 99-1229-104. The Board approved an unrestricted Class 1 card.
 - F. Application No. 99-1208-180. The appellant did not appear for a telephonic hearing, but is rescheduled for a hearing on June 28, 2000.
 - G. Application No. 99-1108-208. The Board approved an unrestricted Class 1 card.
 - H. Application No. 2000-0121-156. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.
 - I. ~~Application No. 99-1116-183. The hearing was tabled pending verification of proof that the Notice of Hearing was delivered.~~
 - J. Application No. 99-0908-002. The Board will approve an unrestricted Class 2 card if the appellant submits letters of reference.
 - K. Application No. 99-1214-204. The appellant did not appear. However, the Board had verification that the Notice of Hearing had been delivered and upheld DPS' denial of a Class 1 and Class 2 card.

- L. Application No. 2000-0217-219. The Board approved an unrestricted Class 1 card.
- M. Application No. 99-1129-199. The Board approved an unrestricted Class 1 card upon receipt of appellant's AA degree and proof of completion of the PPEP program.
- N. Application No. 2000-0106-225. The appellant did not appear. However, she did request that a new hearing be set and she is scheduled for a hearing on August 9, 2000.

BOARD ACTION REQUESTED:

INFORMATION ☒ **ACTION** ☐ (described below)

ATTACHMENTS:

YES ☐

NO ☒

AGENDA ITEM NO. III. D.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Good Cause Exception Hearings – May 10, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

All Board members were present. Fourteen people were scheduled for this hearing. The results are as follows:

- A. Application No. 99-1118-200. The Board approved an unrestricted Class 1 card.
- B. Application No. 2000-0127-147. The appellant did not appear. However, the Board had verification that the Notice of Hearing had been delivered and upheld DPS' denial of a Class 1 and Class 2 card.
- C. Application No. 99-1105-210. The Board upheld DPS' denial of a Class 1 card. The appellant had already been issued a Class 2 card by DPS.
- D. Application No. 2000-0128-237. The Board approved an unrestricted Class 1 card.
- E. Application No. 2000-0202-239. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- F. Application No. 99-1206-241. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.
- G. Application No. 99-1119-228. The Board upheld DPS' denial of a Class 1 card, but approved a Class 2 card restricted to DHS.
- H. Application No. 99-1207-240. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- I. Application No. 2000-0124-212. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- J. Application No. 99-1203-226. The Board approved an unrestricted Class 1 card.
- K. Application No. 99-1112-236. The Board approved an unrestricted Class 1 card.
- L. Application No. 99-1228-249. The Board approved an unrestricted Class 1 card.
- M. Application No. 2000-0217-220. The Board approved an unrestricted Class 1 card.

☐ N. Application No. 2000-0119-193. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.

☐ **BOARD ACTION REQUESTED:**

INFORMATION ☒

ACTION ☐ (described below)

ATTACHMENTS:

YES ☐

NO ☒

AGENDA ITEM NO. III. E.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Good Cause Exception Hearings – May 24, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

All Board members were represented. Alternate Craig Emmanuel represented Board member Corinne Velasquez. Sixteen people were scheduled for this hearing. The results are as follows:

- A. Application No. 2000-0126-209. The Board approved an unrestricted Class 1 card.
- B. Application No. 2000-0105-113. The Board approved an unrestricted Class 1 card.
- C. Application No. 2000-0105-112. The appellant did not appear. She did call and request another hearing date. She has been rescheduled for September 6, 2000.
- D. Application No. 2000-0113-128. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- E. Application No. 2000-0121-246. The appellant did not appear. The hearing was tabled until the applicant was present or until the Board received verification that the Notice of Hearing was delivered.
- F. Application No. 2000-0113-131. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- G. Application No. 99-1227-21. The appellant did not appear. The hearing was tabled until the applicant was present or until the Board received verification that the Notice of Hearing was delivered.
- H. Application No. 99-1207-240. The Board approved an unrestricted Class 1 card.
- I. Application No. 99-1228-230. The Board approved an unrestricted Class 1 card.
- J. Application No. 99-1108-254. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- K. Application No. 2000-0217-218. The appellant did not appear. However, she called and was involved in an accident and requested to be rescheduled. She is scheduled for the hearing on June 28, 2000.
- L. Application No. 2000-0201-286. The Board approved an unrestricted Class 1 card.
- M. Application No. 99-1112-248. The Board approved an unrestricted Class 1 card.

- ☐ N. Application No. 2000-0202-165. The Board upheld DPS' denial of a Class 1 and Class 2 card.
- O. Application No. 2000-0204-243. The Board upheld DPS' denial of a Class 1 card, but approved an unrestricted Class 2 card.
- P. Application No. 2000-0126-276. The Board approved an unrestricted Class 1 card.

☐ **BOARD ACTION REQUESTED:**

INFORMATION ☒

ACTION ☐ (described below)

☐ **ATTACHMENTS:**

YES ☐

NO ☒

AGENDA ITEM NO. III. F.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Good Cause Exception Hearings – June 14, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

All Board members were represented. Alternate Craig Emmanuel represented Board member Corinne Velasquez. Fifteen people were scheduled for this hearing. The results are as follows:

- A. Application No. 2000-0216-216 – The Board approved an unrestricted Class 1 card.
- B. Application No 2000-0207-258– The Board upheld DPS' denial of a Class 1 and Class 2 card.
- C. Application No. 2000-0223-321 – The Board approved an unrestricted Class 1 card.
- D. Application No. 2000-0208-287 – The Board approved an unrestricted Class 1 card.
- E. Application No. 2000-0301-251 – The appellant did not appear. The hearing was tabled until the applicant was present or until the Board received verification that the Notice of Hearing was delivered.
- F. Application No. 2000-0222-273 – The Board approved an unrestricted Class 1 card.
- G. Application No. 99-1223-242 – The Board upheld DPS' denial of a Class 1 card.
- H. Application No. 99-1020-018 – The Board approved an unrestricted Class 2 card. The appellant did not request a Class 1 card.
- I. Application No. 2000-0113-203 – The Board upheld DPS' denial of a Class 1 card , but approved an unrestricted Class 2 card.
- J. Application No. 2000-0106-312 – The Board approved an unrestricted Class 1 card.
- K. Application No. 99-1228-309 – The Board approved an unrestricted Class 1 card.
- L. Application No. 2000-0201-268 – The Board approved an unrestricted Class 1 card.
- M. Application No. 99-1214-292 – It was very difficult to hear and understand each other during this telephonic hearing. Therefore, the Board voted to table this hearing and reschedule it for July 11, 2000 when the appellant can appear in person.
- N. Application No. 2000-0125-250 – The Board approved an unrestricted Class 1 card.

O. Application No. 99-1213-188 – The Board approved an unrestricted Class 1 card.

☐

BOARD ACTION REQUESTED: **INFORMATION** ☒ **ACTION** ☐ (described below)

ATTACHMENTS: **YES** ☐ **NO** ☒

☐

☐

AGENDA ITEM NO. III. G.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of FY 2001-2003 Strategic Plan for submission to Governor's Office

SUBMITTED BY: Sally Loveland

BACKGROUND INFORMATION:

The Board is required to prepare and submit a three-year strategic plan to the Governor's office by September 1, 2000. The plan goals and objectives were developed predicated on the Board obtaining full funding for its operations. A two-year budget request was also prepared in conjunction with the planning process.

The three-year plan includes a mission statement, goals and objectives, and performance measures that the Board hopes to attain each year. Plan emphasis is on providing timely decisions on good cause exception appeals and developing fair standards, rules, policies and procedures for Board activities.

BOARD ACTION REQUESTED: **INFORMATION** ☐ **ACTION** ☒ (described below)

Approve the Board's three-year strategic plan for submission to the Governor's Office.

ATTACHMENTS: **YES** ☒ **NO** ☒

**ARIZONA BOARD OF FINGERPRINTING
FY2001-2003 STRATEGIC PLAN**

Subprogram Mission:

To fairly, expeditiously and responsibly determine good cause exceptions for applicants who have been denied a fingerprint clearance card, or who have been denied approval to work in a residential care facility, a nursing care institution or a home health agency.

Subprogram Description:

The Arizona Board of Fingerprinting reviews requests for good cause exceptions from eligible people who require a fingerprint clearance card and who have been denied clearance by the Department of Public Safety. The Board also reviews requests for good cause exceptions from eligible personnel who have been denied approval by the Department of Public Safety and wish to work in a residential care facility, a nursing care institution or a home health agency.

Subprogram Goal Summary:

- Goal 1: To develop and implement fair standards, rules, policies and procedures for approving good cause exceptions.
- Goal 2: To provide applicants with timely decisions on their good cause exception appeals.

Subprogram Goals, Objectives and Performance Measures:

- ◆ GOAL I: TO DEVELOP AND IMPLEMENT FAIR STANDARDS, RULES, POLICIES, AND PROCEDURES FOR APPROVING GOOD CAUSE EXCEPTIONS.

Objective 1:

- Initiate the rule making process for the Board of Fingerprinting by July 30, 2001.
- Complete the rule making process by June 30, 2002.
- On an ongoing basis, continue to review existing rules for relevance, consistency and fairness.

<u>Type</u>	<u>Performance Measures</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Expected</u>	<u>FY 2002 Expected</u>	<u>FY 2003 Expected</u>
Output	Docket filed	N.A.	Yes	n/a	n/a
Efficiency	GRRC deadlines met	N.A.	n/a	Yes	n/a
Output	Number of rules reviewed	N.A.	n/a	n/a	All

Objective 2:

- At least quarterly, schedule open meetings with affected agencies and other interested parties to review and discuss proposed rules and policies.
- By June 30, 2002, regularly participate in user group meetings to ensure that Board policies, procedures and operations meet agency expectations and needs.
- On an ongoing basis, continue to meet with agencies and other interested parties regarding Board policies, procedures and actions.

<u>Type</u>	<u>Performance Measures</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Expected</u>	<u>FY 2002 Expected</u>	<u>FY 2003 Expected</u>
Output	Number of meetings held	2	4	8	TBD
Output	Number of agencies, stakeholders attending meetings.	5	10	10+	10+

◆ GOAL II: TO PROVIDE APPLICANTS WITH TIMELY DECISIONS ON THEIR GOOD CAUSE EXCEPTION APPEALS.

Objective 1:

- By June 30, 2001, reduce to 30/60 days the turn-around time for good cause exception decisions/hearings from receipt of application to decision/hearing.
- By June 30, 2002, reduce to 20/45 days the turn-around time for good cause exception hearings from receipt of application to decision/hearing.
- By June 30, 2003, reduce to 10/30 days the turn-around time for good cause exception hearings from receipt of application to decision/hearing.

<u>Type</u>	<u>Performance Measures</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Expected</u>	<u>FY 2002 Expected</u>	<u>FY 2003 Expected</u>
Input	Number of good cause exception decisions/hearings requests	n/a/514	300/500	500/700	TBD
Output	Number of good cause exception appeals decided/heard	n/a/148	275/416	470/612	TBD
Efficiency	Days from receipt of application package to decision/hearing	n/a/150	30/60	20/45	10/30

Objective 2:

- On an ongoing basis, review the Board requirements of appellants who desire good cause exceptions to ensure that each continues to be reasonable, essential, and relevant for the Board decision-making process.

<u>Type</u>	<u>Performance Measures</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Expected</u>	<u>FY 2002 Expected</u>	<u>FY 2003 Expected</u>
Output	Review performed	1	1	1	1
Benchmark	Compare with other States or comparable programs	N.A.	AZ/Other states/prgms	AZ/Other states/prgms	AZ/Other states/prgms

Objective 3:

- Improve the efficiency of Board operations by September 30, 2000, through completion of the computer tie-in with the DPS ACCTRAK system.
- Improve the efficiency of Board operations by December 31, 2000, through completion of the computer tie-in with the DPS Vulnerable Adult system.
- By June 30, 2002, develop a restricted web site to enable the Board to review appeal information online.
- By June 30, 2003, complete the automation of the appeal process by connecting the restricted Board web site with the DPS ACCTRAK telephone system.

<u>Type</u>	<u>Performance Measures</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Expected</u>	<u>FY 2002 Expected</u>	<u>FY 2003 Expected</u>
Output	Board/ACCTRAK programming completed	75%	25%	N.A.	N.A.
Output	Board/Vulnerable Adult programming completed	N.A.	100%	N.A.	N.A.
Output	Web Site developed	N.A.	N.A.	100%	N.A.
Output	Web site connected to DPS ACCTRAK	N.A.	N.A.	N.A.	100%
Outcome	Board appeal/completion turn-around targets met	N.A.	yes/no	yes/no	yes/no

Resource Assumptions:

The Board was under funded in fiscal year 2000 and will be under funded in fiscal year 2001 as well. In addition, the Board must begin compliance with the State's Rulemaking procedures in fiscal year 2001. This lengthy process is costly and time-consuming, and while there will be a definite economic impact to the Board, the total cost is inestimable at this time.

The Department of Public Safety provided the additional monies required for the Board's start up costs, needed personnel and basic day-to-day operating expenses in fiscal year 2000 and has committed to provide these monies for fiscal year 2001. Nevertheless, the Board must be self-sufficient in the future. Furthermore, although the Board is currently housed in the Fingerprint Identification Bureau, it may be necessary to relocate in the future. Thus, the costs of being relocated offsite have been included in the Board's budget request. The goals, objectives and performance targets identified in this plan are predicated on the Board obtaining the funds needed for future operations.

Financial and FTE Position Information:

Source	(Thousands)		FY 2002 \$ Request	FY 2003 \$ Request
	FY 2000 \$ Actual	FY 2001 \$ Estimate		
General Fund (match)	60.0	100.0	286.6	250.3
Other Appropriated Funds Agency Fees	0.0	0.0	0.0	0.0
Other Non-Appropriated Funds				
State Lottery	0.0	0.0	0.0	
Liquor Tax	0.0	0.0	0.0	0.0
Foundation	0.0	0.0	0.0	0.0
Private Donations	0.0	0.0	0.0	0.0
Federal Funds Match (50%)	0.0	0.0	0.0	0.0
CAP	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Funds	60.0	100.0	286.6	250.3
	FY 2000 <u>Actual</u>	FY 2001 <u>Actual</u>	FY 2002 <u>Request</u>	FY 2003 <u>Request</u>
FTE Positions	1.5	3.0*	5.0	5.0

* (One AA on loan for five months and one half-time secretary.)

AGENDA ITEM NO. III. H.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of FY 2002 and FY 2003 Budget Requests

SUBMITTED BY: Sally Loveland

BACKGROUND INFORMATION:

The Board has been under-funded since its inception. The Department of Public Safety provided the additional money to fund the Board in fiscal year 2000 and has committed to do so again in fiscal year 2001. They are not prepared to continue this practice forever.

Attached are the budget issue elements justifying the Board's budget requests for each year. These requests are due to the Governor's Office by September 1, 2000. DPS has requested that the FY 2002 and FY 2003 budget requests be submitted internally no later than close of business June 27, 2000.

BOARD ACTION REQUESTED: **INFORMATION** ☒ **ACTION** ☒ (described below)

Approve the Budget requests for submission to the Governor's Office.

ATTACHMENTS: **YES** ☒ **NO** ☐

BUDGET ISSUE ELEMENTS – FISCAL YEAR 2002

DIVISION: Criminal Justice Support
BUREAU: Fingerprint Identification
SUB-PROGRAM: AZ Board of Fingerprinting
CONTACT PERSON: Sally A. Loveland
TELEPHONE #: extension 2809

Narrative:

The Arizona Board of Fingerprinting has been under-funded since its inception. The department provided additional money to fund the Board in FY 2000 and has committed to do so again in FY 2001. In FY 2000, the Board was authorized two FTEs but operated with only one FTE for most of the year due to budget restraints. Although a part-time secretary was hired in the third quarter, the Board ended the year five months behind in hearing appeals. Additional responsibilities were legislated for FY 2001 and a third FTE was authorized, but not the funds to support operations.

The Board is expected to receive 800 appeals in FY 2001 and at least 1200 in FY 2002 and FY 2003. At the same time, the Board must comply with the State's Rulemaking procedures beginning in FY 2001, which means that critical timelines must be met in FY 2002. It takes an estimated seven hours per appeal to process a good cause exception from request to resolution. Based upon a 1712-hour availability factor, the Board will need at least five people just to meet the demand for good cause exceptions. This does not take into account the additional personnel needed to complete the Rulemaking process. Nevertheless, it is believed that the technological improvements identified in the strategic plan will increase efficiency to the point that filling the three authorized positions, plus adding two additional employees will be sufficient to meet the increased workload.

It is further projected that the Board will be required to relocate to an offsite location in FY 2002. Thus, in addition to leasing costs, the FY 2002 budget includes the one-time purchase costs for a fax machine, copier, workstations, and other items needed in an offsite location. Monies were also included in personal services to address a possible position correction during CCMR position reviews.

The FY 2002 budget reflects the one-time expense for outfitting an offsite location, the request for two additional FTEs, the development of a restricted web site, additional costs associated with the rulemaking process, and ongoing operating costs.

Budget Line Item Detail:

FTE = 5 (1 ASO Sup, 3 AA, 1 Secretary)

Personal Services	\$182,200	
ERE	40,100	
Prof/Outside Services	17,100	
Travel In-State	500	
Travel Out-of-State	0	
Other Operating Equipment	46,700	
Capital Equipment	0	
TOTAL		\$286,600

Includes an inflationary figure to the Budget of 5% per year

FTE Position Detail:

Classification	Salary	# of FTE	Total Salary
Administrative Assistant	\$33,872	1.0	\$41,324
Secretary	\$27,723	1.0	\$33,822

BUDGET ISSUE ELEMENTS – FISCAL YEAR 2003

DIVISION: Criminal Justice Support
BUREAU: Fingerprint Identification
SUB-PROGRAM: AZ Board of Fingerprinting
CONTACT PERSON: Sally A. Loveland
TELEPHONE #: extension 2809

Narrative:

The Arizona Board of Fingerprinting has been under-funded since its inception. The department provided additional money to fund the Board in FY 2000 and has committed to do so again in FY 2001. In FY 2000, the Board was authorized two FTEs but operated with only one FTE for most of the year due to budget constraints. Although a part-time secretary was hired in the third quarter, the Board ended the year five months behind in hearing appeals. Additional responsibilities were legislated for FY 2001 and a third FTE was authorized, but not the funds to support operations.

The Board is expected to receive 800 appeals in FY 2001 and at least 1200 in FY 2002 and FY 2003. At the same time, the Board must comply with the State's Rulemaking procedures beginning in FY 2001, which means that critical timelines must be met in FY 2002 and possibly FY 2003. It takes an estimated seven hours per appeal to process a good cause exception from request to resolution. Based upon a 1712-hour availability factor, the Board will need five people just to meet the demand for good cause exceptions. This does not take into account the additional personnel needed to complete the Rulemaking process. Nevertheless, it is believed that the technological improvements identified in the strategic plan will increase efficiency to the point that filling the three authorized positions, plus adding two additional employees will be sufficient to meet the increased demand.

The FY 2003 budget assumes that the Board was fully funded in FY 2002, obtained the two requested FTEs, and was able to develop the identified technological efficiencies. Thus, the FY 2003 budget requests the ongoing operating costs only.

Budget Line Item Detail:

FTE = 5 (1 ASO Sup, 3 AA, 1 Secretary)

Personal Services	\$182,200	
ERE	40,100	
Prof/Outside Services	2,400	
Travel In-State	500	
Travel Out-of-State	0	
Other Operating Equipment	25,100	
Capital Equipment	0	
TOTAL		\$250,300

FTE Position Detail:

Classification	Salary	# of FTE	Total Salary
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0.0

AGENDA ITEM NO. III. I.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Notice of Rulemaking Docket Opening & Certificate of Compliance

SUBMITTED BY: Sally Loveland

BACKGROUND INFORMATION:

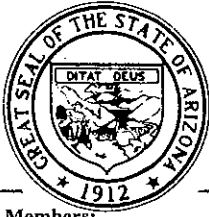
Comms met

The Board was exempt from the rulemaking process for the first year. However, the Board is required to file a Notice of Rulemaking Docket Opening with the Secretary of State's office no later than July 1, 2000. Attached are the documents that need to be sent to the Secretary of State's Office.

BOARD ACTION REQUESTED: **INFORMATION** ☒ **ACTION** ☒ (described below)

Approve the opening of the rulemaking process.

ATTACHMENTS: **YES** ☒ **NO** ☐



ARIZONA BOARD OF FINGERPRINTING

Mail Code 2500 P.O. Box 6638 Phoenix, AZ 85005-6638
Telephone: (602) 223-2800 Fax: (602) 223-2947

Board Members:

Mr. Mike LeHew, Chair

Ms. Corinne Velasquez, Vice Chair

Mr. Jose Garcia

Ms. Cheryl Rowley

Ms. Kim Pipersburgh

June 22, 2000

Ms. Jean Hann, Administrator
Department of Administration
Governor's Regulatory Review Council
1400 West Washington
Phoenix, AZ 85007

Dear Ms. Hann:

Enclosed are one original and four copies of the Notice of Rulemaking Docket Opening and two copies of the Agency Receipt for the Board of Fingerprinting. Also enclosed is a copy of the Agency Certification of Compliance per A.R.S. § 41-1091 (C.)

The Board was exempt from the rulemaking process last year. Nevertheless, a directory has been prepared which summarizes the preliminary rules that were filed, and includes a copy of the bylaws outlining the Board's administrative procedures. Copies of these items are on file and available for public review at:

Arizona Board of Fingerprinting
Mail Code 2500
Post Office Box 6638
Phoenix, Arizona 85005-6638

Please note that the Board is brand new and has no time-frame requirements. Therefore, we will not be submitting a five-year review Reports' Progress Report as required by A.R.S. § 41-1056 (H), nor a Time-frame Compliance Report required by A.R.S. § 41-1078 (A.)

If you have any questions, please contact me at (602) 223-2800.

Sincerely,

Sally A. Loveland
Director

Enclosures

NOTICE OF RULEMAKING DOCKET OPENING

Arizona Board of Fingerprinting

1. **Title and its heading:** 13, Public Safety
Chapter and its heading: 11, Board of Fingerprinting
Articles and their heading: 1, Board of Fingerprinting
Section numbers: R13-11-101 through R13-11-105
(The Board may add, delete, or modify additional Sections or Exhibits as necessary.)

2. **The subject matter of the proposed rule:**

The Board of Fingerprinting was established in 1999 to conduct good cause exception hearings for the issuance of class one and class two fingerprint clearance cards. The Board was exempt

The proposed rulemaking will delete all of the Sections within the Article and replace them with new Sections that will update the program, reorganize the rules, clarify the rules, conform to rulemaking format and style requirements, and conform to statutory authority and the Administrative Procedure Act. The rules will identify standards for issuing interim approvals; clarify the process for approving good cause exception appeals without formal hearings; and establish standards and procedures for hearing good cause exceptions from eligible applicants who require a fingerprint clearance card or who wish to work in residential care institutions, home health agencies and nursing care facilities.

The Board may add, delete, or modify additional Sections or Exhibits as necessary.

3. **A citation to all published notices relating to the proceeding:**
Notice of Exempt Rulemaking: 13A.A.C. 11, September 10, 1999

4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Sally A. Loveland

Address: Arizona Board of Fingerprinting
Mail Code 2500
P. O. Box 6638
Phoenix, AZ 85005-6638

Telephone: (602) 223-2800

Fax: (602) 223-2947

E-mail: sloveland@dps.az.state.us

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Board will accept written comments until the close of record, which has not yet been determined. The Board has not scheduled any oral proceedings at this time.

6. **A timetable for agency decisions or other action on the proceeding, if known:**

None

AGENCY RECEIPT

NOTICE OF RULEMAKING DOCKET OPENING

1. **Agency Name:** Arizona Board of Fingerprinting
2. **The Subchapters, if applicable, the Articles, the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

<u>Subchapters, Articles, Parts, and Sections</u>		<u>Action</u>
R13-11-101	Applicability	Amend
R13-11-102	Good Cause Exception Hearings	Amend
R13-11-103	Notification of Decisions for Good Cause Exception Hearing	Amend
R13-11-104	Requests for Good Cause Exception – No Disposition	Amend
R13-11-105	Confidentiality	Amend

AGENDA ITEM NO. III. J.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Procedures to implement new Legislation effective July 18, 2000

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

Effective July 18, 2000, applicants who have been denied approval by the DPS to work for a residential care institution, a home health agency or a nursing care facility may be able to appeal to the Board for a good cause exception. In addition, the Board will be able to authorize interim approvals prior to a hearing. The Board will also be able to approve good cause exception without holding a hearing. How these new law will be implemented will be discussed.

3 tier approach

- 1) Interim approval - single isolated offense - more than 5 years old precludes or not
- 2) Consideration without hearing - older offense maybe multiple
- 3) Hearings - all others

BOARD ACTION REQUESTED:

INFORMATION ☒ [X]

ACTION ☐ [] (described below)

ATTACHMENTS:

YES ☐ []

NO ☒ [X]

1 F. Members of the board are not liable for acts done or actions taken
2 by any board member if the members act in good faith following the
3 requirements of this article.

4 Sec. 18. Section 41-619.54, Arizona Revised Statutes, is amended to
5 read:

6 41-619.54. Confidentiality of criminal record information;
7 exception

8 A. All criminal history record information THAT IS maintained by the
9 board is confidential, except that criminal history record information may
10 be disclosed pursuant to a DETERMINATION FOR A good cause exception hearing
11 pursuant to section 41-619.55.

12 B. Persons WHO ARE present at a good cause exception hearing shall not
13 discuss or share any criminal history record information outside of the good
14 cause exception hearing.

C. Criminal history record information and good cause exception
DETERMINATIONS AND hearings are exempt from title 39, chapter 1.

Sec. 19. Section 41-619.55, Arizona Revised Statutes, is amended to
read:

41-619.55. Good cause exceptions; revocation

A. THE BOARD SHALL DETERMINE GOOD CAUSE EXCEPTIONS.

B. THE BOARD SHALL HOLD A GOOD CAUSE EXCEPTION HEARING IF THE BOARD
DETERMINES THAT IT EITHER:

1. WILL DENY A GOOD CAUSE EXCEPTION.
2. DOES NOT HAVE ENOUGH INFORMATION TO MAKE A FINAL DETERMINATION.

~~A.~~ C. The following persons shall be present during good cause
exception hearings:

1. A representative of any state agency that requires a person to have
a valid fingerprint clearance card.

2. The person who requested the good cause exception hearing. The
person may be accompanied by a representative at the hearing.

~~B.~~ D. The board may grant a good cause exception if the person shows
to the board's satisfaction that the person is not awaiting trial on or has
not been convicted of committing any of the offenses listed in section
41-1758.03, subsection B, C, F or G or that the person is successfully
rehabilitated and is not a recidivist. Before granting a good cause
exception the board shall consider all of the following:

1. The extent of the person's criminal record.
2. The length of time that has elapsed since the offense was
committed.
3. The nature of the offense.
4. Any applicable mitigating circumstances.
5. The degree to which the person participated in the offense.
6. The extent of the person's rehabilitation, including:
(a) Completion of probation, parole or community supervision.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-411, Arizona Revised Statutes, is amended to read:

36-411. Residential care institutions; home health agencies; fingerprinting; definitions

A. Beginning on November 1, 1999 and subject to legislative appropriations, as a condition of licensure or continued licensure of a residential care institution, a nursing care institution or a home health agency and as a condition of employment in a residential care institution, a nursing care institution or a home health agency, employees and owners of residential care institutions, nursing care institutions or home health agencies or contracted persons who provide direct care, home health services or supportive services and who are not licensed or certified by a health profession regulatory board pursuant to title 32 shall submit a full set of fingerprints to the department of public safety for a state and federal criminal history records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety ~~is authorized to~~ MAY exchange this fingerprint data with the federal bureau of investigation. The department of public safety shall maintain records relating to fingerprinting conducted pursuant to this section.

B. A health professional who has complied with the fingerprinting requirements of the health professional's regulatory board as a condition of licensure or certification pursuant to title 32 is not required to submit an additional set of fingerprints to the department of public safety pursuant to this section.

C. Owners shall make documented, good faith efforts to contact previous employers to obtain information or recommendations that may be relevant to a person's fitness to work in a residential care institution, nursing care institution or home health agency.

D. An employee, an owner or a contracted person or a facility on behalf of the employee, the owner or THE contracted person shall submit a notarized form THAT IS provided by the department of public safety within twenty days after the date the person begins work AND that indicates whether the person has ever been convicted of or is awaiting trial on any of the following criminal offenses in this state or similar offenses in another state or jurisdiction:

1. Abuse of a vulnerable adult as defined in section 13-3623.
2. Sexual abuse.
3. Incest.
4. First or second degree murder.
5. Kidnapping.
6. Arson.
7. Sexual assault.
8. Sexual exploitation of a minor.

- 1 9. Contributing to the delinquency of a minor.
- 2 10. Commercial sexual exploitation of a minor.
- 3 11. Felony offenses involving distribution of marijuana or dangerous
- 4 or narcotic drugs.
- 5 12. Theft.
- 6 13. Robbery.
- 7 14. A dangerous crime against children as defined in section 13-604.01.
- 8 15. Child abuse.
- 9 16. Sexual conduct with a minor.
- 10 17. Molestation of a child.
- 11 18. Manslaughter.
- 12 19. Aggravated assault.
- 13 20. Domestic violence.
- 14 21. Fraud and fraudulent schemes.
- 15 22. Assault within the last five years from the date of submitting a
- 16 full set of fingerprints to the department.
- 17 23. Possession or use of a dangerous or narcotic drug within the last
- 18 five years from the date of submitting a full set of fingerprints to the
- 19 department.

20 E. The department of public safety shall not approve the application
 21 if the department cannot determine within one hundred twenty days after it
 22 receives the federal criminal ~~history~~ records check whether the person is
 23 awaiting trial on or has been convicted of committing any of the offenses
 24 listed in subsection D of this section or any similar offenses in another
 25 state or jurisdiction. The department of public safety shall identify the
 26 specific crime or crimes appearing in the criminal ~~history~~ records check only
 27 in the notification provided to the person fingerprinted. ~~A person may~~
 28 ~~appeal the results of the criminal history records check pursuant to title~~
 29 ~~41, chapter 6, article 10.~~ A DECISION MADE PURSUANT TO THIS SUBSECTION IS
 30 A FINAL ADMINISTRATIVE DECISION AS DEFINED IN SECTION 41-1092 AND IS SUBJECT
 31 TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. The
 32 department of public safety may exchange the results of the criminal ~~history~~
 33 records check with the department of health services for the purpose of
 34 ensuring compliance with licensing regulations of assisted living facilities,
 35 home health agencies and nursing care institutions.

36 F. Except as provided in subsections G and H AND I of this section,
 37 a residential care institution, nursing care institution or home health
 38 agency shall not allow any person or contracted person to continue to provide
 39 direct care, home health services or supportive services if the notarized
 40 form or the results of that person's criminal ~~history~~ records check show that
 41 the person is awaiting trial on or has been convicted of an offense listed
 42 in subsection D of this section or any similar offense.

43 G. Volunteers who provide services to residents under the direct
 44 visual supervision of a previously screened owner or employee are exempt from

1 the fingerprinting and criminal ~~history~~ records check requirements of this
2 section.

3 H. A person who provides direct care, home health services or
4 supportive services for a residential care institution, home health agency
5 or nursing care institution after meeting the fingerprinting and criminal
6 ~~history~~ records check requirements of this section is not required to meet
7 the fingerprint and criminal ~~history~~ records check requirements of this
8 section again if that person changes employment within two years after
9 satisfying the requirements of this section.

10 I. IF THE NOTARIZED FORM OR THE RESULTS OF THE CRIMINAL RECORDS CHECK
11 SHOW THAT THE PERSON IS AWAITING TRIAL ON OR HAS BEEN CONVICTED OF ANY OF THE
12 OFFENSES LISTED IN SUBSECTION D, PARAGRAPHS 6, 9, 12, 13, 20, 21, 22 AND 23
13 OF THIS SECTION OR ANY SIMILAR OFFENSE, THE PERSON MAY REQUEST A GOOD CAUSE
14 EXCEPTION HEARING WITH THE BOARD OF FINGERPRINTING PURSUANT TO SECTION
15 41-619.55. IF THE BOARD OF FINGERPRINTING GRANTS A GOOD CAUSE EXCEPTION THE
16 PERSON MAY CONTINUE TO PROVIDE DIRECT CARE, HOME HEALTH SERVICES OR
17 SUPPORTIVE SERVICES FOR A RESIDENTIAL CARE INSTITUTION, NURSING CARE
18 INSTITUTION OR HOME HEALTH AGENCY.

19 J. Costs associated with fingerprinting and costs associated with
20 obtaining a criminal ~~history~~ records check are the responsibility of the
21 employer or the applicant.

22 K. For the purposes of this section:

- 23 1. "Home health services" has the same meaning prescribed in section
24 36-151.
- 25 2. "Supportive services" has the same meaning prescribed in section
26 36-151.

27 Sec. 2. Section 41-619.53, Arizona Revised Statutes, is amended to
28 read:

29 41-619.53. Board of fingerprinting; powers and duties;
30 personnel; liability

31 A. The board of fingerprinting shall:

- 32 1. Conduct good cause exception hearings pursuant to section
33 41-619.55.
- 34 2. Adopt rules to implement this article, including rules to establish
35 good cause exceptions for the issuance of class one and class two fingerprint
36 clearance cards pursuant to section 41-1758.03. THE RULES SHALL ESTABLISH
37 SPECIFIC GOOD CAUSE EXCEPTIONS FOR PERSONS REQUESTING HEARINGS PURSUANT TO
38 SECTION 36-411, SUBSECTION I AND PROCEDURES AND STANDARDS FOR GRANTING THESE
39 GOOD CAUSE EXCEPTIONS. The rules shall define a common good cause exception
40 standard for agencies that serve similar populations to allow a good cause
41 exception to be granted to an applicant. This rule making is exempt from the
42 requirements of ~~title 41~~, chapter 6 OF THIS TITLE.
- 43 3. Administer and enforce this article and rules adopted pursuant to
44 this article.

15-763. Plan for providing special education

All school districts AND CHARTER SCHOOLS shall develop ~~a district plan~~ POLICIES AND PROCEDURES for providing special education to all ~~handicapped~~ children WITH DISABILITIES within the district OR CHARTER SCHOOL ~~and submit it to the state board of education for approval~~. All ~~handicapped~~ children WITH DISABILITIES shall receive special education programming commensurate with their abilities and needs. EACH CHILD SHALL BE ENSURED ACCESS TO THE GENERAL CURRICULUM AND AN OPPORTUNITY TO MEET THE STATE'S ACADEMIC STANDARDS. SPECIAL EDUCATION SERVICES SHALL BE PROVIDED AT NO COST TO THE PARENTS OF CHILDREN WITH DISABILITIES.

Sec. 8. Section 15-763.01, Arizona Revised Statutes, is amended to read:

15-763.01. Surrogate parent; appointment

A. A petition for the appointment of a surrogate parent for a ~~handicapped~~ child WITH A DISABILITY shall be made to a court of competent jurisdiction if any of the following conditions have been met:

1. No parent can be identified.
2. A public agency cannot determine the whereabouts of a parent, after having made three documented and reasonable attempts.
3. The child is a ward of the state.

B. In order for a person to be eligible to receive an appointment as a surrogate parent for a ~~handicapped~~ child WITH A DISABILITY all of the following must be true:

1. The person shall be determined by the court to possess knowledge and skills that will ensure adequate representation of the child.
2. The person may not be an employee of a state agency if that agency is involved in the education or care of the child.
3. The person may not have any interests that would conflict with the best interests of the child.
4. THE PERSON SHALL HAVE A VALID CLASS ONE FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1. PERSONS CURRENTLY SERVING AS SURROGATE PARENTS SHALL OBTAIN A CLASS ONE FINGERPRINT CLEARANCE CARD BY JANUARY 1, 2002.

~~C. A foster parent may petition the court to receive an appointment as a surrogate parent for a handicapped child. The court is responsible for determining whether a particular individual is able to act as a foster parent and also represent the best interest of the child as a surrogate parent.~~

~~D. C.~~ C. A person who is appointed as a surrogate parent for a ~~handicapped~~ child WITH A DISABILITY shall not be deemed to be an employee of the state solely as a result of serving as a

- Volunteer

AGENDA ITEM NO. III. K.

BOARD OF FINGERPRINTING MEETING DATE: June 23, 2000

SUBJECT: Consideration of Proposed Legislation for FY 2001

SUBMITTED BY: Mike LeHew

BACKGROUND INFORMATION:

The Board will discuss issues for possible submission as legislation in this fiscal year. Legislative issues must be submitted by July 1, 2000 to be considered in the next legislative session.

1) include ^{all} preparatory offenses

2) Registered sex offender should not be holding a card or records

BOARD ACTION REQUESTED:

INFORMATION ☒

ACTION ☐ (described below)

ATTACHMENTS:

YES ☐

NO ☒